

THE CITY OF CLAYTON

Board of Aldermen Meeting
Council Chambers - 10 N. Bemiston Avenue
February 22, 2011
7:00 p.m.

Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Alex Berger, Steve Lichtenfeld, Judy Goodman, Michelle Harris, Andrea Maddox-Dallas and Cynthia Garnholz

Mayor Goldstein
City Manager Owens
City Attorney O'Keefe

Mayor Goldstein asked for any questions or comments relating to the February 8, 2011 minutes, which were previously provided to the Board.

Alderman Goodman moved to approve the February 8, 2011 minutes. Alderman Lichtenfeld seconded the motion.

The motion passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

Mayor Goldstein introduced Corky as the winner of the Clayton Century Foundation's mascot contest. Corky and his owner, Mr. Arthur Scharf was in attendance to accept a proclamation from the City recognizing February 22, 2011 as *Corky's Day*. Mayor Goldstein introduced Ms. Joan Kiburz, founder of *Making It*, a program that benefits at risk city children. The *Making It* booth sells cookbooks with healthy recipes from top chefs in St. Louis, AARF scarves, personalized designer needlepoint dog collars, and I-Bones, gourmet dog bones at the Clayton Farmer's Market from May through November. On a special note, I-Bones are made by graduates of Cindy Vickers' *Loosen the Leash* program, where teenagers are paired with stray dogs. Ms. Kiburz is here tonight to donate a personalized, custom-made collar to Corky.

Mayor Goldstein commented that the Clayton Century Foundation is doing a great job in raising money to help with projects that are not in the City budget and that the City appreciates all of their efforts.

AN ORDINANCE TO AMEND SECTION 215.680 OF THE CLAYTON CITY CODE RELATNG TO SMOKING REGULATIONS

City Manager Owens reported that on July 14, 2009, the Board of Aldermen adopted an ordinance to prohibit smoking in enclosed public spaces based on the potential health consequences of exposure to secondhand smoke. Existing businesses were required to comply with the provisions of this ordinance by July 1, 2010. Now that the regulations have been in effect for some time, staff is recommending the Board consider modifications to clarify and strengthen certain provisions. As

a result, the draft ordinance would amend Section 215.680 of the Clayton City Code regarding smoking regulations.

In summary, the ordinance presented for consideration clarifies provisions primarily related to outdoor dining areas, hotel rooms and private clubs. Under the revised provisions, outdoor dining areas would only be excluded from the smoking prohibitions if they had no walls (including windows or screens) higher than three (3) feet. In addition, only hotel or motel guest sleeping rooms or suites could be designated as smoking rooms; ballrooms, dining rooms, banquet halls, lounges, lobbies or other common areas would now be specifically excluded from the possibility of such a designation. Lastly under the revisions, private clubs serving as enclosed places of employment would be subject to the smoking restrictions.

City Manager Owens requested an amendment to the recommendation in the proposed ordinance, Section 215.680, C.2.J, retaining *“Restaurants, including lounge and bar areas, except outdoor dining areas;”* to the current provisions that are in the ordinance. Other modifications were proposed, but staff would like to study those further and do not want those items to be considered in the current ordinance.

City Attorney O’Keefe explained that there is a printed version of the proposed ordinance before the board tonight without additional changes to Section 215.680, C.2.J.

Alderman Berger introduced Bill No. 6254, an amendment to Section 215.680, prohibiting smoking in public places to be considered for the first time to be read by title only. Alderman Lichtenfeld seconded.

City Attorney O’Keefe clarified the amendment to strike any revisions to Section 215.680., C.2.J.

Alderman Berger moved to strike any amendments to Section 215.680, C.2.J. Alderman Lichtenfeld seconded.

In response to Alderman Garnholz’s question, City Attorney O’Keefe confirmed that C.2.J. will remain as *“Restaurants, including lounge and bar areas, except outdoor dining areas;”*.

The motion passed unanimously on a voice vote.

Mayor Goldstein noted that the Board will now consider the amended amendment to the ordinance regarding smoking in the City of Clayton. She explained that this is being done to ensure that the verbiage is clear and that the ordinance is better by tightening up the language. She said that there is no change in the intent of the ordinance.

City Attorney O’Keefe reads Bill No. 6254, first reading as amended by title only.

The motion passed unanimously on a voice vote.

Alderman Berger introduced Bill No. 6254 as amended, an amendment to Section 215.680, prohibiting smoking in public places to be considered for the second time to be read by title only. Alderman Lichtenfeld seconded.

City Attorney O’Keefe reads Bill No. 6254 for the second time. Alderman Berger – Aye; Alderman Lichtenfeld – Aye; Alderman Goodman – Aye; Alderman Harris– Aye;

Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6139 of the City of Clayton.

A RESOLUTION TO APPROVE A CONTRACT WITH KUHLMANN DESIGN GROUP, INC. FOR ARCHITECTURAL DESIGN SERVICES FOR THE HANLEY PARK PAVILION PROJECT

City Manager Owens reported that the Parks and Recreation Department recently received notification that it was successful in its efforts to secure a St. Louis Municipal Park Grant for \$184,000 towards the construction of a comfort station and path accessibility improvements at Hanley Park. As the Board may recall, a study was completed last fall which included the recommendation to construct a facility that would have restrooms and serve as a small, outdoor activity learning center for visitors to Hanley Park. Much needed path improvements were also recommended to enhance ADA accessibility of the overall site. A conceptual design was completed at that time, but did not include construction documents necessary to bid the project. As a result, the City has requested a proposal from Kuhlmann Design Group, Inc., one of the City's "on-call" engineering contractors, to complete such documents.

The scope of work proposed includes a design development phase during which time the plan for the building will be finalized. While there was a large public engagement outreach to complete the park study last fall, the interested neighbors were told that final design work would take place once funding was secured. When this phase is completed (4 to 6 weeks), construction documents will be prepared and will include civil, architectural, structural, mechanical and electrical work. This should take an additional 3 weeks. Bidding and construction of the project is estimated to take 4 months.

The proposed fee for these services is \$20,000, and the grant does not pay for design costs. While no funding was included in the FY 2011 Budget for this project, Don Yucuis, Finance Director, has indicated that there are funds available in the capital improvements budget to cover this expense. Once the design is complete and bids are secured, staff will return to the Board with a proposal to complete the construction. The estimated construction cost for the project is \$200,000 and the grant is for \$184,000. A local match of 5% of the construction cost is a requirement of the grant. Parks and Recreation staff has already begun discussions with CCF Parks to determine their willingness to help fund this project in an effort to limit any further costs to the City.

Recommendation is to approve the resolution authorizing the proposed Scope of Services for the Hanley Park Pavilion Project by Kuhlmann Design Group, Inc. for a fee of \$20,000.

Alderman Berger moved to approve Resolution No. 11-12, a contract for architectural services for the Hanley House shelter project. Alderman Lichtenfeld seconded.

Alderman Berger stated that for purposes in completion of the process, outlined by staff, he seeks confirmation that the area neighborhood would continue to have input to the process in order to ensure that their voice continues to be a part of the process.

Patty DeForrest confirmed that as part of the scope of work staff did inform the residents that they would be coming back to them with the final design.

Alderman Goodman emphasized the need for restroom facilities at this site because they have tried to operate without them and it has been a difficult challenge. She said that the added facilities will help host student groups and other small organizations to visit this historic site.

The motion passed unanimously on a voice vote.

A MOTION TO APPROVE A LIQUOR LICENSE TO SELL ALL KINDS OF INTOXICATING LIQUOR AT RETAIL BY THE DRINK, INCLUDING SUNDAYS FOR MISTO RESTAURANTS LLC, DBA BOCCI RISTORANTE, 16 N. CENTRAL AVENUE

City Manager Owens reported that Misto Restaurants, LLC is requesting a liquor license to sell all kinds of intoxicating liquor at retail by the drink, including Sundays, at 16 N. Central Avenue under the name of Bocci Ristorante.

The Police Department has completed its review of the application and supports the issuance of the requested license.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

Staff recommends passing a motion to approve the liquor license to sell all kinds of intoxicating liquor at retail by the drink, including on Sundays.

Alderman Berger moved to approve a liquor license for Misto Restaurants, LLC, Bocci Ristorante. Alderman Lichtenfeld seconded.

Mr. Frank Schmitz, owner addressed the Board stating that he anticipates opening within three to four weeks. He added that the renovation at Barcelona is expected to be completed soon.

Mayor Goldstein thanked Mr. Schmitz for his continued commitment to the Clayton community.

The motion passed unanimously on a voice vote.

A RESOLUTION TO APPROVE A VOLUNTARY BUYOUT POLICY FOR ADMINISTERING A HAZARD MITIGATION GRANT WITH RESPECT TO PROPERTIES ON HADDINGTON COURT

City Manager Owens reported that On September 22, 2009, the Board of Aldermen voted to hire a consultant to prepare and submit to the State Emergency Management Agency (SEMA) an application for participation in the Hazard Mitigation Grant Program for the FY 2010 funding cycle (October 1, 2009 - October 1, 2010). Late last year, the City received notification that the grant had been awarded, and in January, the Board approved the formal agreement to participate in the program.

The next step in the process is for the Board to adopt a policy to govern how the grant process will move forward. Items contained in the policy include prioritization of the buyouts; how the appraisal process will be conducted; the basis for the offers that will be made including how the required local match will be handled; and the timing for completion of each step.

The Hazard Mitigation Grant program requires that at least 25% of the overall project costs be paid from non-federal (i.e. local) sources. In this case, the required local match is estimated to be approximately \$1.6 million. The City has indicated it will fund 50% of the local match and expects the property owners to share the remainder of this responsibility.

Recommendation is to adopt the resolution approving the Voluntary Buyout Policy for administering a Hazard Mitigation Grant with respect to properties on Haddington Court.

Alderman Berger moved to approve Resolution No. 11-13, a voluntary buyout policy for administering a hazard mitigation grant. Alderman Lichtenfeld seconded.

Mayor Goldstein summarized that this issue began approximately two (plus) years ago when the residents were concerned about flooding in their neighborhood. She complimented Ms. Yvonne Pierce for organizing the voices of the neighbors who were affected by the flooding. She explained that the City first approached MSD to try to see if the issues could be related to the sewer system, but it became apparent that this was a much bigger problem. At the expense of the City and the direction of Mike Pratt, the City applied for a federal grant and was successful in getting the grant. She commented that while it is several years later it is important to recognize that staff did not anticipate the additional expense in the budget, but felt that this is a very important safety issue to continue to move forward on. She said that as the City moved forward she felt that the process was very thorough and well thought out. She noted that all of the residents and staff were a part of that process at different points in time and pointed out that because it is a federal program and that the City is working within the federal guidelines some things cannot be changed. She commented that she was glad that they were able to listen to the neighbors and work with them on some of the points that were important to them. She stressed that the City is most certainly not interested in purchasing park land and referencing the earlier presentation by the Parks and Recreation Department, the City knows what their parks priorities are. She said that although the City is not in the market to purchase new park land they are willing to spend public funds to help with a safety situation. She again commented that she is pleased with Ms. Pierce on how she has really helped organize the process and helped the City communicate and understand the situation that transpired on Haddington Court.

Alderman Berger commented that he is in full support of the plan and that this is a true collaborative effort brought about by citizens and a City in order to resolve an issue. He feels that the City has done a fabulous job in its due diligence and Mike Pratt has done an extraordinary job. He said that they would like very much to continue to find the ways to drive home a solution and what they have in front of them is the opportunity to do that and he is very pleased with where they are.

Mayor Goldstein added that she received a question from a resident (not of Haddington Court) who had been misinformed or misunderstood some of the issues in the buyout policy. She acknowledged that the appraisals will be done for 2008, pre-recession/pre-flood. She said that the citizen misunderstood the 75% federal funding and 25% local match and thought that the City was asking people to "write a check" for their portion of the match. She clarified that the City is not asking the home owners to come out of pocket for their 12.5% of the 25% match, but more accurately means that the 12.5% is a discounting of their home price.

Alderman Lichtenfeld agreed that Mayor Goldstein's and Alderman Berger's statements were right on track and he fully supports the policy.

Ms. Yvonne Pierce, Haddington Court homeowner, addressed the Board stating that she does not fully agree with the buyout plan and how it is fully laid out. She said that they have talked with SEMA and they said that they do not recall a situation where homeowners had been asked to contribute in a residential buyout situation as theirs. She feels that the residents are okay with contributing to the local match, but what they are looking for is something close to fair

market value. She said that she and her husband were 26 years old when they bought their house on Haddington Court. They didn't know the street had a history of flooding and weren't required to have flood insurance. She said that they are hoping to receive a viable offer to where everyone will feel comfortable in selling their homes and she does not see it going in that direction. She said that the City of Clayton has received a FEMA grant that provides 75% of the cost to buy the 12 houses on Haddington Court. Purchase of all 12 homes would result in a 4.8 acre park. It is rare that this large of a piece of land in Clayton is available for conversion to a park and even more rare that a grant for 75% of the cost is available. She feels that it would be nice for the City to take advantage of having a park resulting in a "win-win" situation. She has three main concerns with the buyout plan: 1) What happens to homeowners if funding runs out and no more funding is available from FEMA? There are only 12 houses in the Haddington cul-de-sac, if all but a few are removed it could destroy the neighborhood; 2) The buyout plan has the homeowners paying half of the local match, which means homeowners would have to pay to play by accepting a below market value for their homes; and 3) In the example in the buyout plan for a \$400,000 house, the homeowner would need to give the City \$52,000. What happens if a homeowner doesn't have \$52,000 to give to the City? Does this mean they don't get to participate?

Mayor Goldstein acknowledged that the residents have been living in a state of uncertainty for two years as the City waited to hear about the grant and she cannot imagine the anxiety that they've had in wondering whether or not the City would get the grant and now wondering about the appraisals. She wishes that in some ways the City could expedite this issue further to get all of the uncertainty behind them so that they could know what they are dealing with. But meanwhile the City is going through the process with a timeline and she knows that it must be an emotional roller coaster for the residents.

In response to Ms. Pierce's questions, Mike Pratt thanked the Board for their support and thanked Ms. Pierce for being the driving force for the neighborhood. He stated that at some time in the process there is a need to eventually get to the point in putting out a policy; the policy has to be defensible, in accordance with federal law, and also be based on logical fact. He said that the buyout priority in the plan today is based on the benefit cost ratios which essentially buys out those homes with the worse situations first, it helps those in need the most. When the application was first put together he said that one of the residents had a recent appraisal which was approximately 10% greater than the county's data base to which the City added 10% to the projected appraisals. He noted that they won't know those figures until the actual appraisal is done, but it seemed like a logical approach. He said that since then they have heard comments that the number is too low or too high. He is committed to requesting more money if it runs out, but he feels and hopes that they will not run out of money during the process.

Mike Pratt again stressed that the way the program is set up is to purchase those homes with the worse situations and he does feel that they will not run out of money and will be able to purchase all of the homes, but he will not know that until the appraisals are done. He added that it wouldn't be the City's position to sell any of the properties and reminded the residents that they do have the choice to sell their properties themselves before or after the program. He added that he thinks it is a good program and hopes that they all consider the buyout.

Mr. Bob Pierce addressed the Board stating that he does not support the policy and encouraged the Board to not approve the policy. He said that if the plan is approved and the process begins they will have vacant lots in the neighborhood that will hurt any chances for the remaining property owners who do not participate in the plan.

In response to Mayor Goldstein's question, Mike Pratt confirmed that this is a voluntary program with both the citizens and the City and that it is the property owner's choice to participate in the program. He stated that SEMA has made it clear that the plan is voluntary on both parts and the City has the opportunity to discontinue the process at any time, but added that it could risk any future opportunity of receiving future funding.

Mr. Rich Less, #2 Haddington Court, addressed the Board stating that a lot has been said tonight and it has been a long and arduous road. He said that everything that Mr. Pratt has said is correct and that he feels as a homeowner it would be a tragedy if the plan did not move forward. He thanked the Board for allowing property owners to make the choice to accept or reject the offers and commented that he is in full support of the policy.

Mayor Goldstein thanked Mr. Less for his comments and also reminded the audience that the Board is here because of concern for public safety.

Mayor Goldstein requested a roll call vote.

The motion passed unanimously on a roll call vote cast as follows: Alderman Berger – Aye; Alderman Lichtenfeld – Aye; Alderman Goodman – Aye; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; and Mayor Goldstein – Aye.

In response to Mayor Goldstein's question, Mike Pratt stated that the next steps would be the appraisals process.

Other

Mayor Goldstein acknowledged that an MYAC member was in the audience. She also commented that City Manager Owens communicated with the MYAC members via *Twitter* last Friday, "tweeting" his daily activities.

Alderman Harris congratulated Mayor Goldstein on being selected by the St. Louis Business Journal as "Top Influential St. Louis Leader."

There being no further business the meeting adjourned at 8:00 p.m.

Mayor

ATTEST:

City Clerk